

# **Promote Jobs and Economic Growth: Protect Consumers and Our Troops - Support H.R. 3261**

**From: The Committee on the Judiciary**

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**Bill: H.R. 3261**

**Date: 11/10/2011**

Dear Colleagues,

We urge you to cosponsor bipartisan legislation that will modernize our criminal and civil statutes to meet new IP enforcement challenges and protect American investment and jobs. The Stop Online Piracy Act, H.R. 3261, will ensure that law enforcement and job creators have the tools they need to protect American intellectual property from rampant counterfeiting and piracy.

Criminals have harnessed the power of the Internet to establish “rogue websites” that profit through the theft of U.S. intellectual property. Rogue websites run the gamut of Internet commerce. Some sell knockoffs of consumer products like shoes and handbags. Some offer illicit copies of America’s most creative software, music, movies, and books. And others peddle products that pose a clear and present danger to consumers, such as counterfeit pharmaceuticals and auto parts. Many of these sites look completely legitimate. They dupe unsuspecting consumers into purchasing shoddy products or downloading illegal pirated content and place consumers at risk of identity theft, credit card fraud and malware.

Rogue sites do not pay taxes, they do not adhere to manufacturing standards, they do not innovate, and they do not respect U.S. laws. They do steal American jobs, harm consumers, thwart the incentives that promote innovation and creativity, and undermine those engaged in legitimate Internet commerce.

For these reasons, businesses from virtually every sector of the economy have joined forces with organized labor to support H.R. 3261.

H.R. 3261 recognizes that U.S. law enforcement is powerless to reach many rogue websites that target American consumers but operate from safe-haven countries like China and Russia. We can’t count on countries that are seeking their own economic advantage and don’t share our tradition and respect for intellectual property rights to step up enforcement and shut down these rogue operations to protect our interests. But that doesn’t mean we can stand idly by and ignore the damage being wrought by these criminals. We must engage and provide law enforcement and owners of intellectual property with effective remedies to better protect our citizens, preserve our markets and promote investment in new creations and innovations by cutting off access and support to rogue websites.

H.R. 3261 provides the following tools to advance these goals (while ensuring the same due process protections used in all U.S. district court proceedings.):

- U.S. Department of Justice action -- under H.R. 3261, the Attorney General can file an action against a foreign rogue site in federal court. The DOJ must prove that a site is used to commit or facilitate the commission of criminal copyright or counterfeiting violations punishable under U.S. law. If the court finds that a site is rogue, the court may order Internet Service Providers (ISPs) and search engines not to link or connect users to the rogue site. The court can also require payment processors and online advertising networks to cut off the flow of money to the rogue site. Each of these intermediaries receives liability protection for complying with the court's order and are only required to undertake measures against rogue sites that are technically feasible and reasonable.
- Market-based action -- H.R. 3261 also sets out a new private resolution process that encourages out-of-court solutions as the preferred means to efficiently and effectively protect against the enormous losses that result from rogue websites. This section of the bill relates only to financial intermediaries. The bill authorizes a judicial action for injunctive relief only (no money damages) against the rogue website only after a right-holder has exhausted the market-based notification process. Under no circumstances does the bill permit a right-holder to sue an intermediary and intermediaries are held harmless when they take action in response to a notification or court order and even when they conclude that they should not suspend services based upon the notification.
- H.R. 3261 also addresses other critical intellectual property issues that relate to national security, public health and safety, and the expansion of respect for intellectual property abroad.
- Foreign and economic espionage -- H.R. 3261 recognizes that theft of U.S. trade secret information by foreign entities poses a serious threat to the American economy by increasing criminal penalties and fines for individuals and organizations convicted of foreign or economic espionage.
- Trafficking in counterfeit military goods -- H.R. 3261 creates a strong deterrent to those who knowingly risk the lives of members of our armed forces and law enforcement by significantly increasing criminal penalties on those who knowingly traffic in counterfeit military goods or goods sold to law enforcement.
- Trafficking in counterfeit drugs -- H.R. 3261 increases criminal penalties on those who traffic in counterfeit drugs.
- Intellectual property attaché program -- H.R. 3261 expands the U.S. IP attaché program and U.S. government IP training and capacity building programs and realigns their mission to align with priorities identified in the annual Special 301 report.

To join the bipartisan list of cosponsors of H.R. 3261, please contact Olivia Lee at [olivia.lee@mail.house.gov](mailto:olivia.lee@mail.house.gov).

Sincerely,

Lamar Smith  
Chairman  
Committee on the Judiciary

John Conyers, Jr.  
Ranking Member  
Committee on the Judiciary